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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/752,688	01/03/2001	Toru Shirasaki	3061/22	9745

7590

11/12/2003

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EXAMINER

PATTERSON, MARC A

ART UNIT

PAPER NUMBER

1772

DATE MAILED: 11/12/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

CLO 11

Advisory Action

Application No.

09/752,688

Applicant(s)

SHIRASAKI, TORU

Examiner

Marc A Patterson

Art Unit

1772

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 22 September 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: none.
- Claim(s) objected to: none.
- Claim(s) rejected: 8-14.
- Claim(s) withdrawn from consideration: none.
8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☒ Other: See attached.

ADVISORY ACTION

WITHDRAWN REJECTIONS

1. The 35 U.S.C. 112 second paragraph rejections of Claims 8 – 14, of record on page 2 of the previous Action, are withdrawn.

REPEATED REJECTIONS

2. The 35 U.S.C. 102(b) rejection of Claims 8 – 14 as being anticipated by Yen (U.S. Patent No. 4,470,508), of record on page 4 of the previous Action, is repeated.

ANSWERS TO APPLICANT'S ARGUMENTS

3. Applicant's arguments regarding the 35 U.S.C. 112 second paragraph rejections of Claims 8 – 14, of record on page 2 of the previous Action, have been considered and have been found to be persuasive. The rejections are therefore withdrawn.

Applicant's arguments regarding the 35 U.S.C. 102(b) rejection of Claims 8 – 14 as being anticipated by Yen (U.S. Patent No. 4,470,508), of record on page 4 of the previous Action, have been carefully considered but have not been found to be persuasive for the reasons set forth below.

Applicant argues, on page 5 of Paper No. 9, that the rejection is improper because the spacer block which inserted into the ring container disclosed by Yen does not constitute a part of the inside surface of the container; instead, Applicant argues, the inside surface of the container is covered with a layer of adhesive which is an organic material. However, the spacer blocks, which comprise their own surfaces, are held within the four corners of the container (column 5,

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lines 18 – 24; Figure 1) and therefore clearly constitute part of the inside surface of the container box. Furthermore, the container base includes a first surface area (of a spacer block) and the covering also includes a surface area (of a spacer block), each of which is formed of an inorganic material.


Applicant also argues, on page 6, that Yen does not teach that aluminum and polyethylene are equivalent materials for making the container. However, Yen teaches that aluminum and polyethylene are equivalent materials for making the container, and Yen also teaches a modification in which the spacer blocks are cemented to the container and covering, therefore comprising part of the container and covering (column 4, lines 56 – 59); Yen therefore teaches that aluminum and polyethylene are equivalent materials for making the container.

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc Patterson, whose telephone number is (703) 305-3537. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM. If attempts to reach the examiner by phone are unsuccessful, the examiner's supervisor, Harold Pyon, can be reached at (703) 308-4251. FAX communications should be sent to (703) 872-9310. FAXs received after 4 P.M. will not be processed until the following business day.

Marc A. Patterson, PhD.

Marc Patterson
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HAROLD PYON
SUPERVISORY PATENT EXAMINER
1772 11/10/03